

BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Tuesday, December 28, 2004

(COMMITTEE OF THE WHOLE)

The regular meeting of the Detroit Board of Police Commissioners was held on Tuesday, December 28, 2004, at 3:00 p.m., at Police Headquarters, 1300 Beaubien – Rm. 328-A, Detroit, Michigan 48226.

ATTENDANCE

Board Members Present

Arthur Blackwell, II
Erminia Ramirez **(ABS)**
Jim Holley
Megan Norris **(ABS)**
Willie Hampton **(ABS)**

Department Personnel Present

AC Walter Shoulders
AC Walter Martin
2nd DC Deborah Robinson
Cmdr. Ralph Godbee
Lt. Roosevelt Lawrence
Sgt. Debbie Jackson

Board Staff Present

Dante' L. Goss, Executive Director
E. Lynise Bryant-Weekes, Personnel Director **(ABS)**
Denise R. Hooks, Attorney/Supervising Inv. **(ABS)**
Arnold Sheard, Interim Chief Investigator

OTHERS PRESENT

Ron Scott
Ms. Walters
Sandra Hines
Aaron Macaulay
Rick Jones, City Council Office

RECORDERS

Jerome Adams
Kellie Williams

1. **CALL TO ORDER**

Chairperson Blackwell called the regular meeting of the Detroit Board of Police Commissioners to order at 3:24 p.m.

2. **APPROVAL OF MINUTES**

♦ **Tuesday, December 21, 2004**

Chairperson Blackwell stated the above cited Minutes will be tabled until the next full meeting of the Board.

3. **REPORT FROM THE CHAIR**

Chairperson Blackwell stated the Charter requires us to meet every week. Being someone who believes in evolution, I think that this is an issue that probably needs to be looked at because even City Council has a recess. I understand that when they first implemented this, what the issue was, but I think now, if you look at how we do certain things, I think the main reason is to have meetings to inform the public and discharge certain responsibilities that we have, but I think that twice a month may be sufficient and that is something that we might want to look at in relative to a ballot issue and put it in front of the people.

4. **SECRETARY'S REPORT – EXEC. DIR. GOSS**

OFFICE CLOSINGS

The Board of Police Commissioners' Office and the Office of the Chief Investigator will be closed on Friday, December 31, 2004, and Monday, January 3, 2005, in observance of the New Year's Holiday.

CITIZEN COMPLAINTS RECEIVED

	<u>This Week</u>	<u>Year to Date</u>
2004 - Weekly Count of Complaints:	31	1,579
2003 - Weekly Count of Complaints:	27	1,340

The Office of the Chief Investigator (OCI) closed a total of **10** cases this week.

The Office of the Chief Investigator submitted **10** cases to the Chief's Office.
The Chief's Office has reviewed and returned **0** cases to OCI.

5. REPORT/PRESENTATION – CHIEF OF POLICE

DETROIT POLICE DEPARTMENT

REPORT TO THE BOARD OF POLICE COMMISSIONERS



BUILDING A SAFER DETROIT THROUGH COMMUNITY PARTNERSHIPS.

The Detroit Police Department is committed to uphold its mission to provide a safe environment for our residents and businesses. This effort is not possible without the joint commitment of the community and the Police Department. We appreciate and value the role our citizens have played in helping us to take guns and drugs off the streets of the city of Detroit.

SPECIAL ENFORCEMENT ACTIONS

During the period of December 21st–27th, the *Narcotics Enforcement and Conspiracy Units* conducted 29 search warrants and 35 street enforcement actions within the boundaries of the city of Detroit, resulting in the following arrests and confiscations:

- ◆ 26 Felony arrests
 - ◆ 89 Misdemeanor arrests
 - ◆ 2 Juveniles detained
 - ◆ 633.8 Grams of cocaine, 1.6 grams of heroin and 13,081 grams of marijuana
- street value **\$308,724.00**
 - ◆ \$12,482.00 U.S. currency
- Confiscated:
- ◆ 20 Handguns
 - ◆ 5 Long guns

The Vice Unit

On December 20th, officers of the Vice Unit conducted an Offer to Engage Operation within the boundaries of the 6th precinct, resulting in the following arrests and confiscations:

- ◆ 10 arrested for "Offer to Engage Another for the Act of Prostitution"
- Confiscated:
- ◆ 10 Vehicles

The Gang Enforcement Section

On December 20th, officers of the Gang Enforcement Section and Operation Gun Stop were on patrol in the area of Davison and 14th. The officers observed a narcotics transaction take place. As a result, one (1) man was arrested for "Carrying Concealed Weapon-Person" and "Violation of Controlled Substance Act." Confiscated was one (1) blue steel revolver and (13) zip lock baggies of crack cocaine.

Police/Community Intervention



TAKING THE GUNS OFF THE STREET !



Total Guns Confiscated
Year-To-Date
4,312

SECOND PRECINCT

On December 26th, officers of the 2nd Precinct responded to the 14800 block of Greenfield on a "Disturbance" run. As the result of an investigation, three (3) men were arrested for "Entering Without Owner's Permission" and "Violation of Controlled Substance Act." Confiscated were approximately \$391.00 in currency, 5 grams of crack cocaine and 4 grams of heroin, with a street value of \$9,200.00.

FIFTH PRECINCT

On December 22nd, officers of the 5th Precinct responded to the area of East Warren and Alter on an "Armed Robbery Just Happened" run. As the result of an extensive surveillance operation, one (1) man was arrested for "Robbery Armed."

SEVENTH PRECINCT

On December 21st, officers from the 7th Precinct responded to the area of Jefferson and East Grand Boulevard on a "Man Threatening to Jump Off the Macarthur (Bell Isle) Bridge" run. Once at scene, the officers engaged in a three (3) hour negotiation with the man, which resulted in the man coming down from the ledge. The man was conveyed to Riverview Hospital Crisis Center.

NINTH PRECINCT

On December 22nd, officers from the 9th Precinct were on patrol in the 19000 block of Runyon. The officers observed a group of males loitering in the street and blockading a moving lane of traffic. As a result of their investigation, one (1) man was arrested for "Carry A Concealed Weapon-Person." Confiscated was a .25 caliber nickel-plated semi automatic handgun. In addition, the man confessed to three (3) other robberies.

TENTH PRECINCT

On December 24th, officers of the 10th Precinct received a police run to the 4000 block of Clements on a "Shots Fired Inside" run. One (1) man was arrested for "Felonious Assault," "Felon in Possession of a Firearm" and "Habitual 4th." Confiscated was one (1) blue steel revolver.

ELEVENTH PRECINCT

On December 21st, officers of the 11th Precinct responded to the 70 block of Nevada on a "Man Just Stabbed" run. The officers received information regarding the man who stabbed the victim. The wanted man was arrested for "Assault with Intent to Murder" and "Habitual 3rd."

SPECIAL RESPONSE TEAM

On December 20th, officers of the Special Response Team in conjunction with several department stores, provided toys for the "SWAT for Tots" program. This program donated toys to nearly 450 children, ages ten (10) years old and under. Also, the Mounted Unit provided a horse for Santa and the Canine Unit and Aviation Unit provided demonstrations for the children.

Chief of Police Ella M. Bully-Cummings

6. PRESENTATION & DISCUSSION OF GENERAL ORDERS

- **DIRECTIVE 102.4: DISCIPLINE**
- **DIRECTIVE 202.7: FOOT PURSUIT**

Chairperson Blackwell stated the presentation and discussion of the above cited Directives will be rescheduled at a later date.

7. APPROVAL OF DIRECTIVES (GENERAL ORDERS)

- **DIRECTIVE 306.1: EVIDENCE AND PROPERTY HANDLING**
- **DIRECTIVE 404.1: DEFINITIONS**

Chairperson Blackwell stated the above cited Directives, will be tabled until the next full meeting of the Board.

8. OTHER BUSINESS

There was no other business.

9. ANNOUNCEMENT OF NEXT MEETING

Thursday, January 6, 2004 @ 3:00 p.m.
Police Headquarters
1300 Beaubien, Rm. 328-A
Detroit, MI 48226

10. ORAL COMMUNICATION FROM THE AUDIENCE

Aaron Macauley stated I did receive an answer from the Chief and Cmdr. Butler, but unfortunately it was the exact same answer that we had in the first place. I am here to ask the Commissioners if they could personally look into this matter. The answer that I am getting is that there is a set of standards that MCOLES gives to the police department that each officer has sets of standards that they have to follow by physically. I went on MCOLES website

and pulled up the Commission of Law Enforcement Standards: Employment Standards for the Michigan Law Enforcement Officers. The only thing that the MCOLES standards has on there is, it says, "to be free of any impairment of sense of physical sound and position of extremities." They did give another comment in laymen terms on that matter. They also said that any medical examination shall be conducted by a licensed physician to assess compliance with standard. It says that, you shall be evaluated toward the ability to the applicant to perform essential job functions." Technically speaking, I was examined by a licensed physician and my licensed physician passed me. I understand that Dr. Blessman is the physician that the Detroit Police Department uses and I gave him my medical records again and another letter of recommendation from my doctor who still gave me the same answer that I received. So, what I did was called MCOLES to ask them is there a set of standards for departments that they had and he said yes and he basically read the same information to me and he also stated that is the only standard that they have for any academy. His name is, actually he is a Detroit police representative in MCOLES, his name is Darnell Blackburn and he said that if I gave documentation from my licensed physician, technically speaking that is all I really would need. But seeing that Dr. Blessman does not approve me that saying basically that it could be a reoccurring injury and that I could claim disability if it were to happen again, which is true, it could, but is that to say that every officer...

Chairperson Blackwell asked what could be true, that it could be a reoccurring injury or that you could claim disability?

Mr. Macauley stated no, anybody could get hurt.

Chairperson Blackwell stated I am not saying that. But on that particular point about whatever your....

Mr. Macauley stated I would not and my doctor is saying that it could not be a reoccurring injury.

Comm. Holley asked why do you want to be a police officer that bad?

Mr. Macauley stated I have played a sport until I was in seventh grade through college. I have not been in college for the last two years, but I do have a college degree. I have had great jobs, but they just don't give me the sense of teamwork. I wanted to go into the service when I got out of high school, but I received an athletic scholarship to go to college, so my father wouldn't let me go. This is the next best thing for me. It is a good job, it has good benefits, it has good retirement and the city of Detroit has good people that live there. Dr. Blessman has never seen me as a patient. I would go and see him as a patient and have him look me over further.

Chairperson Blackwell asked chronologically speaking, did he deny you initially? Is that correct?

Mr. Macauley stated yes Dr. Blessman did.

Chairperson Blackwell asked did you go to your own physician who approved you?

Mr. Macauley stated initially my physician approved me. Dr. Blessman never saw me the first time and he denied me.

Chairperson Blackwell asked so he denied you after you physician approved you the first time?

Mr. Macauley stated yes.

Chairperson Blackwell asked did they send the same set of records back to Dr. Blessman again?

Mr. Macaulay stated yes.

Chairperson Blackwell asked did he come to the same conclusion?

Mr. Macauley stated yes.

Comm. Holley asked has he ever seen you?

Mr. Macauley stated no.

Comm. Holley asked has he ever examined you?

Mr. Macauley stated no. I have called his office to try to get an appointment.

Comm. Holley asked how does he make a decision without seeing him?

Chairperson Blackwell stated they look at the records and the x-rays and make a judgment.

Comm. Holley asked did you see another city doctor?

Mr. Macauley stated I saw my physician.

Comm. Holley asked did you see a physician?

Mr. Macauley stated I have seen the MOMS Clinic physician and he passed me also. I have passed the physical that the Detroit Police Department sends

you to. My physician has passed me. The only doctor that has not passed me is Dr. Blessman, who is a family doctor at the Detroit Medical Center and specializes in occupational medicine. He has never seen any x-rays of mine. The only thing that I ever gave him was written information and medical records from my doctor.

Chairperson Blackwell asked is the medical records that your doctor approved you with, the same medical records that he disapproved you with?

Mr. Macaulay stated yes.

Chairperson Blackwell stated obviously two people are looking at two things totally different.

Mr. Macaulay stated correct. I have tried to get the two doctors to meet and/or talk, but the only way that Dr. Blessman could be reached is through his cell phone.

Chairperson Blackwell asked Lt. Lawrence if he is familiar with what Mr. Macaulay is talking about?

Lt. Lawrence stated very vaguely. The process for applicants is that a candidate will take a physical fitness test administered by one of the medical clinics. If there are some issues that the candidate/applicant has, they are advised to go to their own personal documents and provide some supporting documentation if there are issues.

Chairperson Blackwell asked is the first step to take a physical fitness examination?

Lt. Lawrence stated yes.

Chairperson Blackwell asked is that both physical and diagnostic?

Lt. Lawrence stated yes.

Chairperson Blackwell asked are you familiar with if he passed that particular test or not?

Lt. Lawrence stated I am not personally familiar with this gentleman.

Chairperson Blackwell stated he is testifying today that he did that and he passed the test. So, then you are saying as a follow-up to that, then also you go to your own personal doctor and you ask him to submit further medical evidence from which his doctor has written a notice saying that he is okay to be a police officer.

Lt. Lawrence stated that's if the doctors at the health clinic recognize that there is some issues and/or if the candidate themselves say I've had some previous injuries that is documented somewhere.

Chairperson Blackwell stated the first step he went through was the agility test, you're not familiar with it, but we are going to assume that he is telling the truth that he passed that. The second step was that his doctor certified or testified to the fact that whatever the concerns were that he is okay or he is fit to be hired by the Detroit Police Department. The third issue is Dr. Blessman, who is a physician hired by the police department has the final say on the other two steps. Step one and step two seems to go right with step three where are physician stepped in and that is where the problem is. From what I am hearing in the testimony that is where the problem is.

Lt. Lawrence stated that is my understanding as well.

Cmdr. Godbee stated additionally MCOLES promulgate what is called the 24 essential functions of a law enforcement officer and the decision that our doctors have to use by looking at those 24 essential functions, which is established as a result of the Americans with Disabilities Act. The person has to perform every one of those 24 a person can't perform, they won't meet the states standard. So, those are the things that our city medical director has to take into account. The licensed physicians that are through MOMS and Midwest, which are two clinics that we employ; they are not the final authority. They will review, they will do the medical workup, but our Medical Section... the city's medical director Dr. Blessman makes the final determination because he has our fiduciary interest in mind as far as the well being of the officer and risk management. So, he has to take that into account. He is in occupational medicine, so as far as what kind of stress injuries, accessing old injuries, how they will present in the future, what they present now and if you could perform those functions, so that is his medical expertise and we have to rely on his opinion on that.

Chairperson Blackwell stated in the first physical part which he says he passed....

Cmdr. Godbee stated that is the agility test. The agility test is issued by the state.

Chairperson Blackwell stated it seems to me that in the agility test that you would have some components of these 24 functions come into play.

Cmdr. Godbee stated there are some components, but not all 24. That is a preliminary screening method. Once you get to actual conditional offer of

employment which is the line of demarcation as far as the Americans with Disability Act is concerned. After the conditional offer of employment, we can't ask medical questions prior to that because then you take a chance on possibly having a transgression of the Americans with Disability Act. So, once they are otherwise qualified, which means that they have passed preliminary test, which is the MCOLES minimum standard and when you talk about MCOLES you have to realize that they establish the minimum standard. That is the bare minimum we can utilize as our hiring criteria, but that doesn't mean that we have to stay at that basement. So, our criteria could be higher than what is required.

Chairperson Blackwell asked what you are telling me right now is kind of like when you get accepted in the police department, it is different because if I were to go and administer those 24 conditions on some of the existing officers that I have seen, the question is would they still pass it?

Cmdr. Godbee stated those are administrative tasks that MCOLES, they are looking at the licensing process of law enforcement agencies and by them by a government agency....

Chairperson Blackwell stated I am talking about an ongoing duty of fitness.

Cmdr. Godbee stated we keep going back to this, but that's a collective bargaining issue also. We have raised the fitness standard for existing officers, which is something that we have to negotiate. And, if MCOLES enforces it, it may force us to the negotiation table, but at this time that is not the case.

Comm. Holley asked so even though you have passed all twenty four functions, the problem is that there is a previous injury that we are afraid could reoccur, which therefore will cause liability to the department?

Cmdr. Godbee stated that is correct.

Comm. Holley stated for example when my wife had cancer and we were trying to get her extra insurance. The insurance policy stated that she could die from anything but cancer and it would cover that, but if she died from cancer it wouldn't cover it. So, I asked if I could have a waiver/disclaimer, waiving the fact that I am submitting to this, but if there is anything thing else.... I am asking is there such a thing that a person could say that I understand what your concern is, but I want to be so and so bad, so therefore I am willing to do this in order to have this. Is there such a precedent that has been set?

Cmdr. Godbee stated the Americans with Disability Act contemplates that to a certain extent, it is not articulated the way that you said it. It contemplates that the department or any employing agency has a responsibility to provide

reasonable accommodations. So the person has to perform the 24 essential functions with or without what is called reasonable accommodations. For instance, if you have a hearing deficiency, a reasonable accommodation may be a hearing aid or if you don't have 20/20 vision a reasonable accommodation would be eyeglasses. There are some conditions that would not medicate to the extent to where we could provide reasonable accommodations. So, again not speaking specifically to this gentleman's incident, but just in general. Also, the kind of things that go into our decision making process as we decide whether we can hire a person with an infirmity or cannot. We have to consider those things and then balance them with the American's with Disability Act prior to making our decision as well as the 24 essential functions, which MCOLES has established and we have to follow those, so if they can't perform all 24 of those then we could not....

Chairperson Blackwell asked when somebody is out sick, why do they ask for a sick slip from their physician?

Cmdr. Godbee stated we are working on changing that process.

Chairperson Blackwell stated I am concerned about how Dr. Blessman is making a decision based on the information from MOMS and from his own physician because there is no additional examination or diagnostic determination being made. He asked is that standard practice? Are there cases where he examines people directly? If there is a difference, then why wouldn't we go the extra mile?

Cmdr. Godbee stated I could have the answers to those questions by next week.

Comm. Holley asked could we go the extra mile and have Dr. Blessman examine him because everyone else is saying he is okay?

Cmdr. Godbee stated possibly with a waiver from the candidate, maybe Dr. Blessman could explain his rationale to the Board.

Chairperson Blackwell stated we should be able to have two doctors, so that we could have an alternative or a second opinion.

Cmdr. Godbee stated I will check to see if we could use an Independent Medical Evaluation (IME) as an alternative.

Chairperson Blackwell stated we should have some answers for you on January 13, 2005.

Ron Scott voiced a concern regarding an incident that involved Eastpointe police making an arrest in the city. He asked are suburban agencies working within the city limits in regards to hot pursuits?

AC Shoulders stated in the past an outside agency can come in, if they are on duty or working on a particular criminal matter. Normally, they would notify the jurisdiction that they are in fact within the city of Detroit what they are doing in Detroit, or in most instances they would request assistance. A hot pursuit really has no two mile limit.

Ron Scott asked does that mean it has no boundaries?

AC Shoulders stated yes it does, across the bridge and that tunnel. The person could have been watched by Eastpointe police investigators for something that took place in Eastpointe or something or they could have received information that these people that are in the car had been involved in something while in Eastpointe while they were out there and they can come and investigate it as a law enforcement entity. But once other jurisdictions come within a jurisdiction it is customary procedures that we notify each other that we are actually within that particular jurisdiction and that's to keep down a lot of heavy problems. In most instances, we would ask for assistance from the local jurisdiction to resolve whatever it is. We would almost have to have the particulars of what started it at all, so that we are able to give you a legitimate answer.

Mr. Scott stated I will give you the particulars of it and we are going to get statements on it, but an arrest was initiated within the city limits by an Eastpointe police officer. He asked does anyone have any knowledge about a shooting incident that took place on Conner and Essex on December 26, 2004?

Chairperson Blackwell stated no we don't have any knowledge of that.

Sandra Hines stated it is disappointing to see a pattern of young African-American men being shot and killed by the police department and she feels that these "questionable shootings" should be reviewed by the Prosecutor's Office. She also voiced her concerns regarding the demeanor of officers in the city versus the demeanor of officers in the suburbs.

Rick Jones stated this is the most progressive Commission that I have seen over the years. I don't know what the end result is going to be, but I appreciate the dialogue that we have and the exchange that I see every week between you and the citizens and the efforts that you put forth.

Comm. Holley stated there was an incident that happened in West Bloomfield where a friend of mine ran out of gas and left her car parked on the side of the

road. An officer pulled up behind her car and within ten minutes the officer dispatched an officer to her home and called her home phone number to see if she was okay. She then stated if this happened in Detroit, I would have received a ticket. He asked is it possible to look at someone's license plate or their car to get their home phone number and their address? If so, how could they have that technology there and why don't we have it here? What are they doing that we don't do?

AC Shoulders stated we don't have the necessary resources to do that. But, the Chief's Office does receive numerous letters of praises and appreciation from citizens when they receive help from the police department.

Ms. Walters stated in regards to the consent decree, we must hear everyone's suggestions and we must work together.

11. ADJOURNMENT

The meeting was adjourned at 4:25 p.m.

Respectfully submitted,

DANTE' L. GOSS
Executive Director
Board of Police Commissioners

DLG/kdw